

REMARKS

Upon entry of this Response, claims 1-12, 16-19, 21, 23-24, 26-27, and 30-31 will be amended and claims 20 and 28-29 will be canceled. Thus, claims 1-19, 21-27, and 30-31 will be pending. The claims have been amended solely to expedite prosecution of the present application, and no new matter has been added. Applicants reserve the right to pursue the subject matter of the originally filed claims in this application and in other applications. Reconsideration and further examination are respectfully requested in view of the amendments and the following remarks.

As recited in claim 1, a total number of "attention units" may be associated with a first entity. For example, one thousand attention points might be given to an employee every month.

The first entity may then provide a first communication to a second entity, and the communication may be associated with (1) "a first criterion" and (2) "a first amount of attention units." For example, an employee might email a question to a help desk. In this case, the first criterion might be that the help desk answer the employee's question. Moreover, the employee can allocate some or all of the attention points to that particular email (and his or her total number of attention points would then be reduced by that amount when the question is answered). That is, the employee can "spend" the attention points based on each email's importance from his or her point of view (e.g., fifty points might be assigned to a question about an application's mildly annoying feature while five hundred points are assigned to a question about how to recover an accidentally deleted report).

The originally filed claims stand rejected under 35 USC 102 and/or 103 over U.S. Patent No. 5,826,031 ("Nielsen") and/or U.S. Pub. No. 2002/0120765 ("Boehmke").

Nielsen discloses methods and systems wherein a device (e.g., a computer running a Web browser) downloads a Web page that includes multiple Web objects (e.g., pictures). In particular, a Web page designer might assign a priority of "1" to one object on the Web page and a priority of "5" to another object. When a device downloads that Web page, it decides which objects will be download first based on this priority information (as well as the location of the object on the Web page when different objects have the same priority). Moreover, the downloading device can

adjust the order in which objects are downloaded based on the bandwidth that is currently available between the downloading device and one or more Web servers.

Neither the priority information nor the bandwidth information disclosed by Nielsen are "attention units" as recited in claim 1. For example, neither priority information nor bandwidth information are "reduc[ed] ... when [a] criterion is satisfied" as recited in claim 1. Moreover, claim 1 has been amended to recite that the first entity can associate different amounts of attention units with different communications - and the second entity will "respond to [a] communication based at least in part on [the] amount of attention units." The Web server of Nielsen does not respond to a communication based on either the priority information or the bandwidth information.

Boehmke discloses methods of obtaining real-time information about a communication network and does not remotely suggest these features.

Nor is such a feature obvious in view of these references. In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A *prima facie* case of obviousness is established by presenting evidence that would have led one of ordinary skill in the art to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Evidence of a suggestion, teaching, or motivation to modify a reference may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved, see Pro-Mold & Tool Co. v. Great Lakes Plastics, Inc., 75 F.3d 1568, 1573, 37 USPQ2d 1626, 1630 (Fed. Cir. 1996), although "the suggestion more often comes from the teachings of the pertinent references," In re Rouffet, 149 F.3d 1350, 1355, 47 USPQ2d 1453, 1456 (Fed. Cir. 1998).

Neilson discloses methods and systems to download Web pages. Boehmke discloses different ways of accessing real-time information about a communication network. Thus, even when combined these references do not disclose "attention units" associated with a communication from a first entity to a second entity wherein the second entity will "respond to [the] communication based at least in part on [the] amount of attention units" as recited in the amended claims.

According to the Office Action, it would have been obvious to modify Neilson in ways suggested by Boehmke "because many users access the World Wide Web through low-bandwidth connections, resulting in slow receipt of web pages" (page 12). Applicants respectfully do not understand this reasoning. For example, nothing in either Neilson nor Boehmke teaches or suggests that an entity can assign attention units to an "email message" (claim 2), a "meeting request" (claim 4), a "voicemail message" (claim 6), or a "telephone call" (claim 8).

The teaching or suggestion to make the claimed combination must be found in the prior art, and not be based on the Applicants' disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). The fact that references can potentially be modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. MPEP 2143.01

The absence of any motivation in the prior art (and the lack of a convincing line of reasoning) to assign attention units to various types of communications indicates that the Examiner has simply recognized a benefit provided by the present invention, and then used that benefit as a motivation to combine the references – the essence of impermissible hindsight reconstruction.

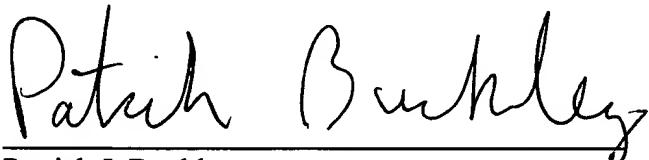
Because there is no teaching or suggestion to modify the references in this way, a *prima facie* case of obviousness has not been established. The rejection of the claims should be reversed.

In addition, claim 26 as amended now recites that "an amount of attention points associated with a communication represents an importance of the communication from the perspective of [a] person." Such a feature is not remotely suggested by any of the references.

C O N C L U S I O N

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-0191.

Respectfully submitted,



May 9, 2005
Date

Patrick J. Buckley
Registration No. 40,928
Buckley, Maschoff & Talwalkar LLC
Five Elm Street
New Canaan, CT 06840
(203) 972-0191